

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
Baltimore Division

<p>KELLY DEWITT</p> <p>and</p> <p>SERENA FUTCH,</p> <p>Plaintiffs,</p> <p>v.</p> <p>MARTIN FAST FOODS OF WEST VIRGINIA, INC.,</p> <p>Defendant.</p>	<p>CIVIL ACTION NO. 1:14-CV-01953</p>
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**MOTION TO DISMISS**

Pursuant to Federal Rules of Civil Procedure 12(b)(4) and 12(b)(5), Defendant Martin Fast Foods of West Virginia, Inc. (“Defendant”), by and through its counsel, hereby moves to dismiss the Complaint filed by Plaintiffs Kelly Dewitt and Serena Futch (“Plaintiffs”) on the grounds that the purported Summons served on Defendant did not comply with the requirements of Federal Rule of Civil Procedure 4(a)(1) and, therefore, constitutes insufficient process and/or insufficient service of process. The grounds for this Motion are set forth more fully in Defendant’s contemporaneously filed Memorandum in Support of Motion to Dismiss.

WHEREFORE, Defendant Martin Fast Foods of West Virginia, Inc. respectfully requests that this Court grant its Motion to Dismiss, vacate the entry of default in this matter, and dismiss Plaintiff's Complaint.

**MARTIN FAST FOODS OF WEST  
VIRGINIA, INC.**

By: /s/ James W.C. Canup

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**CERTIFICATE OF SERVICE**

I hereby certify that, on this 26th day of September, 2014, a true copy of the foregoing MOTION TO DISMISS was electronically filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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